

AN ACT relating to telehealth services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Department" means the Department for Medicaid Services;

(b) "Direct-to-patient telehealth services" means telehealth services delivered at a site other than a clinic, hospital, or health center, including but not limited to the patient's place of residence, that do not require the provider to be part of the telehealth network, established pursuant to KRS 194A.125, in order for services to be provided, covered, and reimbursable;

(c) "Evidence-based best practices" means the integration of the best available research with clinical expertise in the context of patient characteristics and patient and family caregiver preferences;

(d) "Home health agency" has the same meaning as provided in KRS 216.935; and

(e) "Home telemonitoring services" means services that require:

1. Scheduled remote monitoring of data related to a patient's health, including but not limited to monitoring of the patient's blood pressure, heart rate, weight, blood sugar, and oxygen level, performed by a registered nurse licensed pursuant to KRS Chapter 314 or physician licensed pursuant to KRS Chapter 311;
2. Transmission of data to a home health agency licensed pursuant to KRS Chapter 216; and
3. The patient's informed consent to remote monitoring and treatment.

(2) The department shall submit a waiver or waiver amendment for approval to the Centers for Medicare and Medicaid Services in order to provide coverage for

medically necessary home telemonitoring services performed by a home health agency for a Medicaid beneficiary with at least three (3) of the following criteria, unless the service is otherwise deemed medically necessary by a healthcare provider:

- (a) Serious or chronic documented medical conditions that have resulted in or may result in frequent or recurrent hospitalizations and emergency room admissions;
- (b) A documented history of poor adherence to ordered medication regimens;
- (c) A documented history of falls in the six (6) month period prior to evaluation of the need for home telemonitoring services;
- (d) Limited or absent informal support systems;
- (e) A documented history of challenges with access to care;
- (f) A history of living alone or being home alone for extended periods of time;
and
- (g) Documented confirmation by the provider that home or direct-to-patient monitoring serves the needs of the patient.

(3) The department shall establish coverage provisions and reimbursement criteria for:

- (a) Home telemonitoring services based on evidence-based best practices; and
- (b) Direct-to-patient telehealth services, which shall be subject to the same reimbursement methodology as for other covered face-to-face health services.

(4) The department shall ensure that clinical information gathered by a home health agency while providing home telemonitoring services is shared with the patient's treating health care professionals.

(5) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A for the implementation and administration of this section.

➔Section 2. KRS 273.443 is amended to read as follows:

- (1) Any funds made available under the federal act shall be used by each grantee of the funds:
 - (a) To provide a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or those areas of the community where poverty is a particularly acute problem;
 - (b) To provide activities designed to assist low-income participants including the elderly poor:
 1. To secure and retain meaningful employment;
 2. To attain an adequate education;
 3. To access adequate health care;
 4. To make better use of available income;
 - 5.~~[4.]~~ To obtain and maintain adequate housing and a suitable living environment;
 - 6.~~[5.]~~ To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment related assistance;
 - 7.~~[6.]~~ To remove obstacles and solve problems which block the achievement of self-sufficiency;
 - 8.~~[7.]~~ To achieve greater participation in the affairs of the community; and
 - 9.~~[8.]~~ To make more effective use of other programs related to the purposes of KRS 273.405 to 273.453;
 - (c) To coordinate and establish linkages between governmental and other social programs to assure the effective delivery of such services to low-income individuals;
 - (d) To encourage the use of entities in the private sector of the community in

efforts to ameliorate poverty in the community;

- (e) To develop, promote or otherwise encourage economic development activities which result in assisting low-income persons to become economically productive members of their community;
 - (f) To provide education, counseling and technical assistance on compliance with equal opportunity legislation for individuals and community organizations, both public and private.
- (2) In addition to required services and activities to be provided with funds made available under the federal act, these funds may be used to provide on an emergency basis for the provision of such supplies and services to meet immediate essential needs of low-income persons including the elderly poor.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 273.410 TO 273.453 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "telehealth consultation" has the same meaning as provided in KRS 205.510.

(2) The state administering agency shall establish a program to permit the reasonable and cost-effective use of funds made available under the federal act for telehealth consultation services. Such services shall originate from a mobile or fixed community action agency site and shall be transmitted directly to program participants utilizing compatible devices approved by the state administering agency in a location that may include, but is not limited to, the community action agency regional office, a community center, a school, a church, or a program participant residence.

(3) The state administering agency shall work with the Department for Medicaid Services to ensure Medicaid coverage for persons who are Medicaid-eligible for telehealth consultation pursuant to KRS 205.559.

➔Section 4. . KRS 205.559 is amended to read as follows:

- (1) The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and:
 - (a) Is provided in the telehealth network established in KRS 194A.125(3)(b); or
 - (b) Is provided direct-to-patient as established in Section 1 of this Act.
- (2) (a) The cabinet shall establish reimbursement rates for telehealth consultations, which shall be subject to the same reimbursement methodology as for other covered face-to-face health consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.
 - (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (3) A health-care facility or state administering agency as defined in KRS 273.4106 that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility or agency and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
- (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.
- (6) (a) The cabinet and any regional managed care partnership or other entity under

contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:

1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;
2. The quality of care as a result of telehealth consultations rendered under this section; and
3. Any other issues deemed relevant by the cabinet.

(b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.

- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.